



Comptroller General  
of the United States  
Washington, D.C. 20548

149887

## Decision

**Matter of:** Kathleen Juenger Chandler

**File:** B-250378

**Date:** August 5, 1993

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### DIGEST

Transferred employee claims reimbursement for 100 percent of expenses incurred in the sale of a residence at her old duty station on the basis of a Divorce Decree, which awarded the home to her husband, a member of her family when she was first notified of the transfer. Title at date employee was first notified of the transfer was in the name of the employee's husband and his former wife which limits reimbursement to 50 percent of the total expenses. William J. Fitzgerald, 66 Comp. Gen. 95 (1986).

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### DECISION

The issue presented in this case is whether a transferred employee may be reimbursed the full 100 percent of the allowable expenses incurred in the sale of a residence at her old duty station when title at the time she was first notified of transfer was in the name of her husband and his former wife. For the reasons that follow, the employee's reimbursement is limited to 50 percent of the allowable residence sale expenses.<sup>1</sup>

Ms. Kathleen Juenger Chandler, an employee of the Bureau of Land Management (BLM), was transferred from the Veterans Administration Medical Center, Salt Lake City, Utah, to Moab, Utah. Ms. Chandler was first notified of her impending transfer on March 20, 1992, and she reported for duty on June 1, 1992.

In connection with the transfer, Ms. Chandler sold the residence at Salt Lake City and claimed reimbursement of \$6,415.50 in expenses incurred in the sale. The BLM allowed only 50 percent of the claimed expenses since the residence

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<sup>1</sup>The request was submitted by Mr. Jerry A. Fries, Acting Chief, Division of Finance, BLM, United States Department of the Interior, Reference: 1382 (820).

was titled at the time of settlement on May 20, 1992, in the name of her husband and his former wife. The BLM cited as the reason for its denial a decision of this Office, Ferrel G. Camp, B-213861, May 21, 1984, where, under similar circumstances, an employee's reimbursement was limited to the extent of his wife's interest in the residence of 50 percent.

Ms. Chandler, however, contends that she is entitled to the full 100 percent of the sale expenses inasmuch as a Decree of Divorce dated August 7, 1991, issued by the Third Judicial District Court of Salt Lake County, State of Utah, in a divorce action between her husband, John P. Chandler, plaintiff, and Nancy B. Chandler, defendant, awarded the residence in question to Mr. Chandler, the plaintiff, free and clear of any interest in the defendant, his former wife. Mr. Chandler was ordered to pay the mortgage payments.

Ms. Chandler states that when BLM questioned the validity of the sole ownership of the property, she contacted the Third Judicial District Court and was advised of the failure of the attorney to provide the court with a quit claim deed when the divorce settlement was signed.<sup>2</sup> Ms. Chandler further states that she was advised by the Clerk of the Court that this oversight could be remedied by an Amended Decree of Divorce and, subsequently, the Third Judicial District Court issued such decree on June 18, 1992, and purported to make it effective the same date as the original decree, July 31, 1991. The Amended Decree listed the property with more specificity, plat, lots, book, etc., than was contained in the original decree. Ms. Chandler also reports that she invested over \$8,000 in the repair and maintenance of the Salt Lake City property.

The statutory authority for reimbursing a transferred employee for the expenses incurred in the sale of a residence at the old duty station requires that title to the residence be in the name of the employee alone, in the joint names of the employee and a member of his/her immediate family, or in the name of a member of his/her immediate family alone. 5 U.S.C. § 5724a(a)(4) (1988). The Federal Travel Regulation (FTR), reiterates the statutory language and adds that the employee's interest in the property must have been acquired prior to the date the employee was first definitely informed of his/her transfer to the new official station. 41 C.F.R. § 302-6.1(c) (1992). The FTR also defines "immediate family," as applicable here, to include the employee's spouse. 41 C.F.R. § 302-1.4(f)(i) (1992).

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<sup>2</sup>A quit claim deed passes any title, interest, or claim the grantor may have in the property.

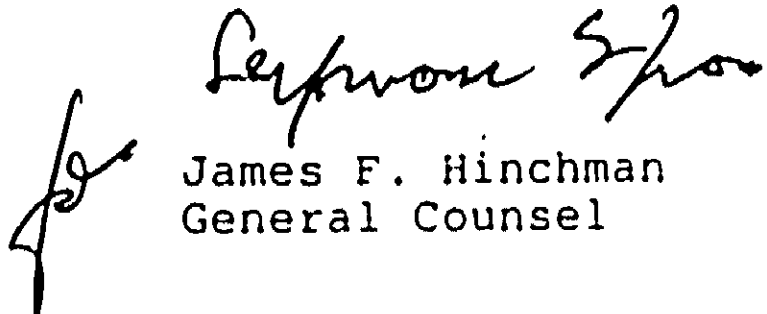
Ms. Chandler's spouse is considered by regulation to be a part of her immediate family. Thus, we need only consider whether Ms. Chandler has met the second requirement of FTR 41 C.F.R. § 302-6.1(c) (1992), and acquired a 100 percent interest in the property prior to the date she was first definitely informed of the transfer on March 20, 1992. The record does not support the fact that Ms. Chandler has met the second requirement. See William J. Fitzgerald, 66 Comp. Gen. 95 (1986).

Ms. Chandler admits, and the record shows, that subsequent to her notification of transfer on March 20, 1992, the property in Salt Lake City was sold and a settlement was held on May 20, 1992. However, since a quit claim deed was not executed transferring legal title to the property, it was necessary that her husband's former wife participate in the settlement in order to convey title to the new owners.

We note that a Divorce Court in Utah may issue equitable orders relating to the division of property, and has authority to order subsequent changes upon petition from the parties. Utah Code Ann. § 30-3-5 (1990); Ciraulo v. Ciraulo, 576 P.2d 884 (Utah 1978); Mitchell v. Mitchell, 527 P.2d 1359 (Utah 1974). However, Ms. Chandler has not furnished us with any legal authority, nor are we aware of any legal authority for a court in equity to pass legal title to property by a divorce decree without further action by the parties in the form of recordation or execution of a quit claim deed. See Dority v. Dority, 645 P.2d 56 (Utah 1982).

We also fail to see what legal effect the Amended Divorce Decree had on the facts as presented here since Ms. Chandler's husband and his former wife no longer had legal title or possession of the property on June 18, 1992, the date the Amended Decree was issued by the Court. Legal title and possession of the property had passed to the new owners a month earlier on the date of settlement, May 20, 1992.

Accordingly, since Ms. Chandler, together with a member of her family, held only a one-half interest in the Salt Lake City residence at the time she was first definitely notified of her transfer on March 20, 1992, we agree with the agency that Ms. Chandler's reimbursement is limited to 50 percent of the applicable residence sales expenses.

  
James F. Hinchman  
General Counsel